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EXAMINER
BAIRD, EDWARD J

ART UNIT	PAPER NUMBER
3695	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

		Application No.	Applicant(s)
Office Action Summary		10/810,060	LAURENT ET AL.
		Examiner	Art Unit	
		Ed Baird	3695	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>12 March 2009</u>.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-18</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-18</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible

for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has

been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37

CFR 1.114. Applicant's submission filed on **12 March 2009** has been entered.

Status of Claims

2.   Applicant has amended claims 1 – 3. No new claims have been added. No

claims have been canceled. Thus, claims 1 – 18 remain pending and are presented for

examination.

Response to Arguments

3.   Applicant's remarks/ arguments filed **11 March 2009** have been fully considered.

(Examiner notes that Request for Continued Examination was filed the *following* day on **12**

March 2009).

4.   Examiner acknowledges amendments to **claim 1** to overcome 35 U.S.C. § 112, 2nd

paragraph rejection and, in turn, withdraws rejection.

5.   Applicant argues **Hunt** does not teach *satisfying a derivative purchase request with*

multiple separate derivative contracts [Remarks page 7, 5th paragraph] and that **Hunt's**

structure is not capable of satisfying a derivative purchase request with multiple separate

derivative contracts for different transportation modes in the manner claimed in claim 1

[Remarks page 7, 6th paragraph]. However, Examiner respectfully disagrees with Applicant's argument.

Although **Hunt** may not explicitly disclose *satisfying a derivative purchase request with multiple separate derivative contracts*, **Nafeh** teaches enabling transactions *relating to individual futures contracts*, each of which are traded in an individual market and that owners of contracts may place limit orders to sell one or more contracts [0039].

Therefore, it would have been obvious to one having an ordinary skill in the art at the time of the instant invention to modify **Nafeh's** invention of trading individual futures contracts to include the concept of a *Shipping Equivalent Unit (SEC)* as taught by **Hunt** because it provides the financial markets with an ability to trade carrier capacity as a tangible commodity by providing the method and means for doing so [**Hunt** column 2 lines 58 – 67].

6.   Applicant's other arguments with respect to claims 1 – 18 have been considered but are moot in view of the new ground(s) of rejection.

7.

Claim Rejections - 35 USC § 101

8.   **Claims** 1 – 18 are directed to non-statutory subject matter.

9.   **Claims 1 – 18,** method claims, are rejected under 35 U.S.C. §101 because, in order to comply with §101 a process/ method must (1) be tied to a particular machine or apparatus, or (2) transform underlying subject matter (such as an article or materials) to a different state or thing.

The methods recited in the claims fail to (1) be tied to a particular machine or apparatus, or (2) transform underlying subject matter to a different state or thing. Diamond v. Diehr, 450 U.S. 175, 184 (1981); Parker v. Flook, 437 U.S. 584, 588 n.9 (1978); Gottschalk v. Benson, 409 U.S. 63, 70 (1972).

There are two corollaries to the machine-or-transformation test. First, a mere field-of-use limitation is generally insufficient to render an otherwise ineligible method claim patent eligible. This means the machine or transformation must impose meaningful limits on the method claim's scope to pass the test. Second, insignificant extra-solution activity will not transform an unpatentable principle into a patentable process. This means reciting a specific machine or a particular transformation of a specific article in an insignificant step, such a data gathering or outputting, is not sufficient to pass the test.

There is no recitation within the claims to indicate that the steps that comprise the method are nothing but mental steps performed within the mind of a person. Thus, to qualify as a § 101 statutory process, the claim should positively recite the other statutory class (the thing or product) to which it is tied, for example by identifying the apparatus that accomplishes the method steps, or positively recite the subject matter that is being transformed, for example by identifying the material that is being changed to a different state.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103 (a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

11. Claims 1 – 7, 9, 13, 14, 17, and 18 are rejected under 35 U.S.C. 103 (a) as being unpatentable over **Nafeh et al** (US Pub. No. 2002/0069155) in view of **Hunt et al** (US Patent No. 5,724,524) in further view of **Metcalfe et al** (US Pub. No. 2002/0138290).

12. Regarding **claim 1, Nafeh** teaches:

- receiving a derivative purchase request for capacity between said first location and said second location, said derivative purchase request having contract requirements that specify at least a shipment volume and a performance time;

- ascertaining from a database of available derivative contracts a plurality of derivative contracts that satisfy said contract requirements;

- selecting a subset of said plurality of derivative contracts to satisfy said derivative purchase request *with multiple separate derivative contracts*, said subset including at least a first derivative contract for a first transportation mode of at least two transportation modes and a second derivative contract for a second transportation mode of said at least two transportation modes, said first transportation mode being different from said second transportation mode;

Nafeh discloses an invention which includes methods and apparatus, to innovate trading of futures securities. This invention includes futures contracts tailored to specific clienteles; the notion of tickets and coupons as tradable futures contracts; the notion of redeemable bundles; and notion of realization of the futures market on the Internet; the apparatus of an Internet-based trading interface and engine; the notion of cookie-cutter futures electronic Internet-based futures markets for each security; the feature of maximal reliance on the Internet; and the business concept of "profitability without the need for high trading volume."[Abstract].

Nafeh discloses a computer-network based futures trading system, or platform, which is electronically accessible by prospective traders, for enabling transactions related to futures contracts and futures contract bundles [0035]. Examiner notes that while **Nafeh** does not explicitly describe **receiving a derivative purchase request, ascertaining available derivative contracts, and selecting derivative contracts to satisfy said derivative**

purchase request, one is inherently present in the system in that a futures trading system must include these functions by definition.

Nafeh does not specially disclose trading futures options in relation to transportation. However, **Hunt** discloses a method and system for listing and brokering a commodity and its financial derivatives [Abstract]. He further discloses object of his present invention as providing the financial markets with ability to **trade carrier capacity** [column 2, lines 65-68]. **Hunt** further describes a series of broad categories of the derivatives. These categories include carrier space available during a particular time period in a particular region; all carrier space utilizing a particular **mode of transportation** within a given time frame; or, a combination of categories [column 3, lines 35-43]. Examiner interprets **combination of categories** as inclusive of Applicant's **first and second transportation modes** which may be different modes of transportation.

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the instant invention to modify **Nafeh's** invention to include *several modes of transportation* as taught by **Hunt** because the invention would allow a user to forecast the cost of futures securities based on data that is pertinent to cargo that may travel via two modes of transportation due to availability of such modes between different locations. For example, cargo between two seaports could often be sent by ship based due to access to seaports. However, inland origins or destinations would require an additional mode of transportation such as truck or air transport between seaport and inland location.

Examiner notes that while **Hunt** may not explicitly disclose satisfying a derivative purchase request *with multiple separate derivative contracts*, **Nafeh** teaches enabling transactions *relating to individual futures contracts*, each of which are traded in an individual market and that owners of contracts may place limit orders to sell one or more contracts [0039].

Therefore, it would have been obvious to one having an ordinary skill in the art at the time of the instant invention to modify **Nafeh's** invention of trading individual futures contracts to include the concept of a *Shipping Equivalent Unit (SEC)* as taught by **Hunt** because it provides the financial markets with an ability to trade carrier capacity as a tangible commodity by providing the method and means for doing so [**Hunt** column 2 lines 58 – 67].

Neither **Nafeh** nor **Hunt** explicitly discloses:

- receiving information restriction requirements from at least a participant, said information restriction requirements limiting a first specified information set to a first specified recipient set, said information restriction requirements limiting a second specified information set to a second specified recipient set. said first specified information set and said second specified information set pertaining to said participant, said first specified information set and said second specified information set being stored in said database. said participant representing at least one of a shipping party, a carrying party. a forwarding party. and a market making party;

- providing said first specified information set to at least a recipient of said first specified recipient set based on said information restriction requirements. said first specified information set including at least one of shipment data and shipment forecast data;

- providing said second specified information set to at least a recipient of said second specified recipient set based on said information requirements; and

- preventing a party not in said first specified recipient set from viewing said first specified information set.

However, **Metcalfe** discloses a system and methods for tracking, sharing and updating of information relating to supply chain purchasing transactions [0007]. She further discloses

helping control access to purchase orders and delivery orders by using filters [0050]. Such filters

may control access to specific data (e.g., purchase and delivery order) and direct users to

specific data by exploiting the user defined attributes created in organizing and defining

purchase and delivery orders [Id.]. **Metcalfe** discloses restricting a supplier's access to only

those purchase orders that are meant for that supplier by using such filters [Id.]. Examiner

interprets supplier as analogous to Applicant's **shipper**.

Therefore, it would have been obvious to a person having an ordinary skill in the art at

the time of the instant invention to modify **Nafeh's** invention to include *controlling access to*

specific data to a supplier's own purchase orders as taught by **Metcalfe** because such a system

is desirable to control the accessibility of the information based on multiple factors defining

users. This includes, for example, preventing a freight forwarder to have access to edit certain

purchasing transaction information in advance of another freight forwarder receiving the

requested goods [**Metcalfe** 0005].

13.   Regarding **claim 2**, **Metcalfe** discloses:

- limiting said at least one of said shipment data and said shipment forecast data in

    said first specified information set to at least one of a specified shipment lane, a

    specified location, a specified shipment mode, and a specified time period wherein

        said participant is a shipper, and

         said first specified recipient set includes a forwarder.

Metcalfe discloses her system working together with other logistical applications which

facilitates the exchange and maintenance of information used in supply chain purchasing

transactions [0035]. These logistical applications may include: a supply chain collaboration

application; a supply chain monitoring application; a transport application; and a demand and

forecasting application [Id.]. As discussed in the rejection of claim 1, **Metcalfe** discloses

allowing and not allowing individuals such as suppliers (Applicant's **shippers**) or **freight**

forwarders [0050]. **Metcalfe** discloses a need for a system that can accurately track, update

and facilitate the sharing of information related to the entire purchasing transaction process in

real time [0004]. Examiner notes that while specific *shipment lanes, a specified locations, and*

specified shipment modes are not disclosed, it would have been obvious to one having ordinary

skill in the art at the time of the invention to apply these parameters to **Metcalfe's** disclosure

because supply chain monitoring involves these parameters.

14.   Regarding **claim 3, Metcalfe** discloses:

- providing location-specific shipment forecast data to forwarders; and
- preventing shippers from viewing said location-specific shipment forecast data [0050]
  as discussed in the rejection of claim 1.

15.   Regarding **claim 4, Nafeh** teaches the limitations:

- receiving data pertaining to capacity releases from shippers, each of said capacity
  releases specifying a shipment volume and an origination point and a destination point,
  each of said capacity releases further specifying performance details including one of a
  departure time, a time en-route, and an arrival time;
- bundling selected ones of said capacity releases into said available derivative
  contracts, wherein at least one of said available derivative contracts comprises a
  plurality of said capacity releases.

Nafeh discloses using a computer-network based futures trading system, or platform, to

provide accessibility to prospective **traders**, for enabling transactions related to futures

contracts and **futures contract bundles** [0035].

16.   Regarding **claim 5, Nafeh** does not specifically disclose the limitation:

- bundling includes grouping capacity releases that involve geographically proximal origination and destination points.;

However, **Hunt** discloses a method and system for listing and brokering a commodity and its financial derivatives [column 3, lines 1-6]. He further discloses identifying a plurality of characteristics of a particular commodity and identifies these characteristics to include a geographic start point and a geographic end point; a start date and a finish date; a start time and a finish time; a volume; a mode of transportation; and, a cost [column 3, lines 6-25]. Examiner interprets characteristics of geographic start point and a geographic end point as equivalent to Applicant's bundling "data" according to geographically proximal origination and destination points. Examiner interprets characteristics of a particular commodity to include Applicant's capacity releases.

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the instant invention to modify **Nafeh's** invention to include characteristics of *geographic start point and a geographic end point* as taught by **Hunt** because financial derivatives in the cargo transportation industry would be sensitive to the distance and modes of transportation between the start and end points of cargo movement.

17.   Regarding **claim 6 and 7, Hunt** teaches the limitation:

- bundling includes grouping capacity releases that fall within a time window;

Hunt discloses this (i.e. a start time and a finish time) as discussed in the rejection of claim 5, above [column 3, lines 17-25]. Examiner interprets characteristics of a start time and a finish time as equivalent to Applicant's bundling "data" that fall within a time window.

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the instant invention to modify **Nafeh's** invention to include characteristics of a *start time and a finish time* as taught by **Hunt** because financial derivatives in the cargo

transportation industry would be sensitive to the time constraints regarding seasonal demands for commodities and shelf lives of some commodities.

18.   Regarding **claim 9, Nafeh** teaches the limitations:

- receiving shipment forecasts pertaining to potential future shipments and self-assessed qualitative ratings associated with said shipment forecasts;

- aggregating said shipment forecasts and qualitative ratings into aggregated shipment forecasts and aggregated qualitative ratings; and

- furnishing said aggregated shipment forecasts and said aggregated qualitative ratings to a trader to enable said trader to evaluate a volume of derivative contracts to be purchased, said trader representing one of a market maker, a forwarder, and a carrier.;

Nafeh discloses his invention to act as an umbrella aggregator, facilitator, administrator and electronic platform for supporting a nearly unlimited number of simultaneous trading markets in hedge instruments, and to act as a disseminator of information pertaining to the activities on these markets [0029]. Examiner interprets *acting as an aggregator* to be equivalent to Applicant's **furnishing said aggregated shipment forecasts.** Examiner notes that the application of these functions to shipment forecasts are statements of intended use as discussed above in the rejection of claim 2, above.

19.   Regarding **claim 13, Hunt** discloses providing the financial markets with ability to trade carrier capacity [column 2, lines 65 – 68]. **Hunt** further describes a series of broad categories of the derivatives. These categories include carrier space available during a particular time period in a particular region; all carrier space utilizing a particular mode of transportation within a given time frame; or, a combination of categories [column 3, lines 35 – 43].   Examiner interprets *combination of categories* as inclusive of Applicant's **first and second modes of transportation**.

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the instant invention to modify **Nafeh's** invention to include *several modes of transportation* as taught by **Hunt** because the invention would allow a user to forecast the cost of futures securities as discussed in the rejection of claim 1.

20.   Regarding **claim 14, Nafeh** teaches providing a derivative contract trading facility to enable market makers to electronically trade said first derivative contract and said second derivative contract prior to expiration.

Nafeh discloses a computer-network based futures trading system, or platform, which is electronically accessible by prospective traders, for enabling transactions related to futures contracts and futures contract bundles [0035]. Examiner interprets computer-network based futures trading system as Applicant's **derivative contract trading facility.** Examiner notes that the **enabling market makers** to trade derivatives is a statement of intended use as discussed above.

Therefore, this claim is rejected for the same reason as claim 1, the claim upon this claim depends.

21.   Regarding **claims 17 and 18, Nafeh** and **Hunt** teach all the items of claim 1, the claim upon which they depend. The limitations:

- derivative purchase request represents futures purchase request (claim 17), and
- said derivative purchase request represents option purchase request (claim 18)

are not further limiting because the terms derivatives include futures and options, i.e. futures and options are both derivatives. Since this statement does not further limit the claim, this claim is rejected for the same reasons as claim 1, the claim upon which they depend.

22.   Claim 8 is rejected under 35 U.S.C. 103 (a) as being unpatentable over **Nafeh** in view of

Hunt in further view of **Metcalfe** in further view of **Vergottis** ("An Econometric model of the

world shipping markets", The City University, London, United Kingdom, 1988, 448 pages; AAT

DX88207).

23.   Regarding **claim 8**, neither **Nafeh, Hunt,** nor **Metcalfe** explicitly teaches the limitation:

   • providing an adjustment market facility for allowing a purchaser of said capacity

     between said first location and said second location pursuant to said subset of said

     plurality of potentially suitable derivative contracts to trade a specific component of said

     subset of said plurality of potentially suitable derivative contracts with other participants

     of the freight industry;

   However, **Vergottis** teaches an aggregated econometric model of the world shipping

markets [Abstract, 1st paragraph]. He further notes that **adjustment** process plays an important

roll by the forward looking speculative positions of investors in the second hand and new

building markets as related to shipping [Abstract, 3rd and 4th paragraph]. Examiner interprets

the **adjustment** process as Applicant's adjustment market facility.

   Examiner notes that while neither **Hunt** nor **Vergottis** explicitly describes allowing a

purchaser of capacity between locations to trade specific components of derivative contracts

with other participants of the freight industry, these are inherently parameters in freight futures.

Examiner further notes that trading "with other participants of the freight industry" are

statements of intended use of Applicant's invention. As per MEP 7.37.09: a recitation of the

intended use of the claimed invention must result in a structural difference between the claimed

invention and the prior art in order to patentably distinguish the claimed invention from the prior

art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Examiner interprets trading derivative contracts as Applicant's **trading specific components of derivative contracts.**

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the instant invention to modify **Nafeh's** invention to include an *adjustment process* as taught by **Vergottis** because it allows a dynamic response of the shipping markets to anticipated and unanticipated external shocks **[Vergottis**, Abstract, 4th paragraph].

24.   Claims 10 – 12, and 16 are rejected under 35 U.S.C. 103 (a) as being unpatentable over **Nafeh** in view of **Hunt** in further view of **Metcalfe** in further view of **Scheer** (US Pub. No. US 2002/0138358).

25.   Regarding **claims 10 and 11**, **Nafeh, Hunt,** and **Metcalfe** teach all the items of claim 9, the claim upon which it depends. Neither **Nafeh, Hunt,** nor **Metcalfe** explicitly teaches the limitations:

- a self-assessed qualitative rating of said self-assessed qualitative ratings involves a shipper's self-assessment "**of at least four**" (claim 10 specific) of a set of criteria that includes demand, manufacturing readiness, manufacturing location, capacity, product, lane, and lane stability.

Scheer discloses a method for selecting a fulfillment plan for moving an item within a supply chain [Abstract]. He further discloses a supply chain management system and method which would allow companies to operate an entire supply chain on a "just in time" basis without requiring those companies to keep an excessive level of product safety stock on hand [0023]. Examiner interprets allowing companies to operate an entire supply chain as representative of Applicant's **self-assessed qualitative ratings**. Examiner interprets **operating a supply chain on a "just in time" basis** as representative of Applicant's manufacturing readiness.

The supply chain management system includes a database of forecast data [0024], which may be comprised of the following:

- Expected **consumption rates** based on historical data [0025]

- Deterministic **demand** data [0026]

Examiner interprets **consumption rates** as representing Applicant's capacity.

Scheer also considers excess inventory in regards to stocking levels for a particular **location**.

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the instant invention to modify **Nafeh's** invention to include *supply chain management system and method* as taught by **Scheer** because the invention would allow a user to forecast the cost of futures securities based on data that is pertinent to the supply and demand in the freight and transport industries.

26.   Regarding **claim 12**, **Nafeh, Hunt,** and **Metcalfe** teach all the items of claim 9, the claim upon which it depends. Neither **Nafeh, Hunt,** nor **Metcalfe** explicitly teaches the limitations:

- computing quantitative ratings pertaining to said shipment forecasts, said quantitative ratings being based at least on historical data pertaining to past shipment forecasts and past actual shipment volume;

- aggregating said quantitative ratings into aggregated quantitative ratings; and

- furnishing said aggregated quantitative ratings to said trader.

Scheer discloses compiling the historical demand data according to characteristics that affect the demand for items in a logistics network. The items are categorized by: 1) moving category; 2) demand rate; 3) number per order; 4) world factors; and 5) lead-time [0180]. He further discloses classifying a rate category of an item as having a "fixed" or "variable" demand rate based upon the rate based on demand over a given period of time [0182], and number per

order category of an item as being either "single" or "lumpy" based upon the number of units of the item typically ordered [0183]. Examiner interprets *categorizing of these items* as representative of Applicant's **quantitative ratings pertaining to said shipment forecasts**. Examiner notes *compiling the historical demand data* as analogous to Applicant's **aggregating and furnishing quantitative ratings**. Examiner notes furnishing quantitative ratings to trader as a statement of intended use as discussed earlier.

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the instant invention to modify **Nafeh's** invention to include *compiling the historical demand data* as taught by **Scheer** because the invention would allow a user to forecast the cost of futures securities based on data that is pertinent to cargo based on demand rate, quantity in an order, international factors; and lead -time.

27.   Regarding **claim 16, Nafeh, Hunt, and Metcalfe** teach all the items of claim 1, the claim upon which it depends. Neither **Nafeh, Hunt,** nor **Metcalfe** explicitly teaches the limitations:

- computing **freight** indices based on historical shipment volume between said first location and said second location; and

- furnishing said aggregated shipment forecasts and said aggregated qualitative ratings to a trader, said trader representing one of a market maker, a forwarder, and a carrier;

Scheer discloses compiling the historical demand data according to characteristics that affect the demand for items in a logistics network [0182 and 0183] as discussed in the rejection of claim 12. Examiner interprets *historical demand data* as Applicant's **freight indices**. Examiner notes furnishing forecasts and ratings to trader as a statement of intended use as discussed earlier.

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the instant invention to modify **Nafeh's** invention to include *compiling the historical demand data* as taught by **Scheer** because the invention would allow a user to forecast the cost of futures securities based on data that is pertinent to cargo based on demand rate, quantity in an order, international factors; and lead-time.

28.   Claim 15 is rejected under 35 U.S.C. 103 (a) as being unpatentable over **Nafeh** in view of **Hunt** in further view of **Metcalfe** in further view of **Talluri** (US Patent No. 6,263,315).

29.   Regarding **claim 15, Nafeh, Hunt, and Metcalfe** teach all the items of claim 1, the claim upon which it depends. Neither **Nafeh, Hunt,** nor **Metcalfe** explicitly teaches the limitations of providing data pertaining to said first derivative contract and said second derivative contract **to an electronic booking system** upon performance time of said first derivative contract to book capacity for shipment using said first mode and said second mode, respectively.

Talluri discloses revenue management software system that supports decisions to accept or deny requests for resource capacity (seats, rooms, volume/weight, air time, etc.). The system uses control logic accessing multidimensional lookup tables of price values for each resource [Abstract]. Examiner interprets *revenue management software system* as Applicant's **electronic booking system**.

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the instant invention to modify **Nafeh's** invention to include *revenue management software system* as taught by **Talluri** because the invention would allow a user to implement cargo shipments based on time constraints in transporting different types of cargo.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ed Baird whose telephone number is (571)270-3330. The examiner can normally be reached on Monday - Thursday 7:30 am - 5:00 pm Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles R. Kyle can be reached on 571-272-6746. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://portal.uspto.gov/external/portal/pair. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ed Baird/
Examiner, Art Unit 3695

/Narayanswamy Subramanian/
Primary Examiner, Art Unit 3695